

Assembly Bill No. 402

Passed the Assembly August 31, 2006

Chief Clerk of the Assembly

Passed the Senate August 30, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 2013 and 3022.3 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, Dymally. Family law court: marriage.

Existing law establishes procedures related to proceedings for dissolution of marriage, nullity of marriage, and legal separation, as specified.

This bill would enact the Collaborative Family Law Act, which would allow the parties to those proceedings, by written agreement, to utilize a collaborative law process, as specified, rather than an adversarial judicial proceeding to resolve those disputes.

The bill would also require a court to issue a statement explaining the factual and legal basis for its custody decision upon the trial of a question of fact in a proceeding to determine the custody of a minor, upon the request of either party.

The bill would also require the Judicial Council to create an information sheet for parties involved in child custody and visitation matters, as specified, on or before January 1, 2008.

The bill would also request the Committees on the Judiciary of the Senate and Assembly to study and make recommendations for a comprehensive statute governing the practice of collaborative law, as specified.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Collaborative Family Law Act.

SEC. 2. Section 2013 is added to the Family Code, to read:

2013. (a) If a written agreement is entered into by the parties, the parties may utilize a collaborative law process to resolve any matter governed by this code over which the court is granted jurisdiction pursuant to Section 2000.

(b) "Collaborative law process" means the process in which the parties and any professionals engaged by the parties to assist

them agree in writing to use their best efforts and to make a good faith attempt to resolve disputes related to the family law matters as referenced in subdivision (a) on an agreed basis without resorting to adversary judicial intervention.

SEC. 3. Section 3022.3 is added to the Family Code, to read:

3022.3. Upon the trial of a question of fact in a proceeding to determine the custody of a minor child, the court shall, upon the request of either party, issue a statement of the decision explaining the factual and legal basis for its decision pursuant to Section 632 of the Code of Civil Procedure.

SEC. 4. (a) The Judicial Council shall create an information sheet for parties involved in child custody and visitation matters that informs the parties that they have the right to agree to a custody or visitation arrangement, that if they do not agree, they will be required to participate in child custody mediation, and that if mediation does not result in an agreement, the court will be required to make a determination on the custody issues. The sheet shall also provide information on how to obtain assistance in resolving a custody case, including, but not limited to, information on finding an attorney, information on accessing court based self-help services if they are available, and information regarding other sources of assistance in developing a custodial agreement. The Judicial Council shall adopt this sheet as a statewide form on or before January 1, 2008, and take reasonable steps to ensure that it is distributed statewide and made available to litigants in custody matters.

(b) Funding for creating the notice described in this section shall be derived from existing resources.

SEC. 5. (a) It is the intent of the Legislature that legislation be enacted during the 2007–08 legislative session to provide a procedural framework for the practice of collaborative law, as described in Section 2 of this act. Towards that end, the Committees on the Judiciary of the Senate and Assembly are requested to convene a working group to study and make recommendations for a comprehensive statute governing the practice of collaborative law.

(b) Members of the working group shall include the following:

(1) Family law attorneys, including members of the Executive Committee of the Family Law Section of the State Bar.

(2) Representatives from the judicial, executive, and legislative branches.

(3) Members of the public.

(c) The working group is requested to complete its deliberations by January 1, 2007.

Approved _____, 2006

Governor